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LEONGUERRERO_M.gar3

LEONARDO M. RAPADAS
United States Attorney
MARIVIC P. DAVID
Assistant U.S. Attorney
Sirena Plaza, Suite 500
108 Hernan Cortez Avenue
Hagåtña, Guam 96910-5029
TEL: (671) 472-7332
FAX: (671) 472-7215

Attorney's for United States of America

FILED
DISTRICT COURT OF GUAM

APR - 5 2006

MARY L.M. MORAN
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF GUAM

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MELVIN LEON GUERRERO,

Defendant,

PRIMOS HEAVY EQUIPMENT,

Garnishee.

CRIMINAL CASE NO. 97-00026

**WRIT OF CONTINUING
GARNISHMENT; INSTRUCTIONS
TO THE GARNISHEE**

WRIT OF CONTINUING GARNISHMENT

GREETINGS TO: Primos Heavy Equipment
Attn.: Payroll
P.O. Box 11427
Yigo, Guam 96929

An application for a Writ of Continuing Garnishment against the property of Defendant-Judgment Debtor MELVIN LEON GUERRERO, Social Security Number XXX-XX-1659, whose last known address is: XXXX E. Gayinero Rd., Yigo, Guam 96929, (hereinafter "Debtor"), has been filed with this Court. A second amended judgment in a criminal case was file against the Debtor on February 3, 2004 and the amount due totals \$170,123.70, as of March 30, 2006 (\$116,437.37 principal + \$4,831.79 interest to 3/30/2006).

1 You are required by law to answer in writing, under oath, and within ten (10), after
2 receipt of this writ, the following information: (1) Whether or not you have in your custody,
3 control or possession, any property or money owned by the Debtor, including nonexempt,
4 disposable earnings; (2) A description of such property and the value of the property; (3) A
5 description of any previous garnishment to which such property is subject and the extent to
6 which any remaining property is not exempt; and (4) The amount of the debt you anticipate
7 owing to the Debtor in the future and whether the period for payment will be weekly or another
8 specified period.

9 **You are also required by law to withhold and retain any property or money of the**
10 **defendant you have in your custody, control or possession, including wages, salary or**
11 **commissions, or if you obtain custody, control or possession until you receive instructions**
12 **from the Court which will tell you what to do with the property and which will notify you**
13 **when this Writ is no longer in effect. The United States requests that the sum of 25% of**
14 **the defendant's monthly non-exempt disposable earnings be withheld from the defendant's**
15 **earnings.**

16 You must file the original written answer to this writ within ten (10) days of your receipt
17 of this writ with the United States District Clerk at: U.S. District Court of Guam, 4th Floor,
18 U.S. Courthouse, 520 West Soledad Avenue, Hagåtña, Guam 96910. YOU MUST ANSWER
19 THE WRIT EVEN IF YOU DO NOT HAVE IN YOUR CUSTODY, CONTROL OR
20 POSSESSION ANY PROPERTY OF THE DEFENDANT. Additionally, you are required by
21 law to serve a copy of this answer upon the debtor at: XXXX E. Gayinero Rd., Yigo, Guam
22 96929 and upon the United States Attorney at: U.S. Attorney's Office, Attn.: Marivic P. David,
23 Assistant U.S. Attorney, Sirena Plaza, Suite 500, 108 Hernan Cortez Avenue, Hagåtña, Guam
24 96910-5059.

25 Under the law, there is property which is exempt from this writ of Garnishment. Property
26 which is exempt and which is not subject to this order is listed on the attached Claim for
27 Exemption form, which the debtor must sign and return if she is claiming any exemptions.

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1 If you fail to answer this writ or withhold property in accordance with this writ, the
2 United States of America may petition the Court for an order requiring you to appear before the
3 Court to answer the writ and to so withhold the property before the appearance date. If you fail
4 to appear or do appear and fail to show good cause why you failed to comply with this writ, the
5 Court may enter a judgment against you for the value of the Debtor's non-exempt interest in such
6 property (including nonexempt disposable earnings). The Court may also award a reasonable
7 attorney's fee to the United States and against you if the writ is not answered within the time
8 specified herein and if the United States files a petition requiring you to appear. **It is unlawful**
9 **to pay or deliver to the Debtor any item attached by this writ.**

10 DATED APR - 5 2006, Hagåtña, Guam.

11
12 *for* Marilyn B. Alon
13 MARY L. MORAN
14 Clerk of Court
District Court of Guam

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21 **RECEIVED**
22 MAR 31 2006
23 DISTRICT COURT OF GUAM
24 HAGATNA, GUAM
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1 TO: Primos Heavy Equipment
2 Attn.: Payroll
3 P.O. Box 11427
4 Yigo, Guam 96929

5 Please read the following instructions regarding the steps you must take to comply with
6 this Writ. For additional information, you may want to contact your attorney or the attorney for
7 the United States identified in Paragraph 6.

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10 **INSTRUCTIONS TO THE GARNISHEE**

11 1. The name, last known address and Social Security Number of the person who is
12 the defendant in this action and whose property is subject to this Writ is:

13 MELVIN LEON GUERRERO
14 XXXX E. Gayinero Rd.
15 Yigo, Guam 96929
16 SSN: XXX-XX-1659

17 2. This Writ has been issued at the request of the United States of America to
18 enforce the collection of a criminal judgment entered in favor of the United States against the
19 defendant. The amount of the judgment as of March 30, 2006 is \$170,123.70 (\$116,437.37
20 principal + \$4,831.79 interest to 3/30/2006).

21 3. If you have in your custody, control or possession any property or money of the
22 defendant, including wages, salary or commissions, or if you obtain custody, control or
23 possession of such property while this Writ is in effect, you must immediately withhold the
24 property from the defendant and retain it in your possession until you receive instructions from
25 the Court which will tell you what to do with the property and which will notify you when this
26 Writ is no longer in effect. The United States requests that the sum of 25% of the defendant's
27 monthly non-exempt disposable earnings be withheld from the defendant's earnings.

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1 4. You are required to answer this Writ within 10 days after the service of the Writ
2 upon you. YOU MUST ANSWER THE WRIT EVEN IF YOU DO NOT HAVE IN YOUR
3 CUSTODY, CONTROL OR POSSESSION ANY PROPERTY OF THE DEFENDANT. Your
4 Answer must state, under oath, the following information:

- 5 a. whether you have custody, control or possession of money
6 or earnings of the defendant;
7 b. a description of the money or earnings and amount;
8 c. a description of any other garnishments, suggestions or
9 levies to which the earnings are subject and the extent to
10 which any remaining earnings are exempt from
11 garnishment, suggestion or levy;
12 d. the amount of any earnings you anticipate owing the
13 defendant in the future and the date on which payment will
14 be made; and
15 e. a description of any earnings you anticipate will come into
16 your custody, control or possession and the dates on which
17 such custody, control, or possession will occur.

18 5. After you complete the answer under oath, you must mail or deliver an answer
19 bearing the **original** signature plus one copy of the person preparing the answer to:

20 Clerk, United States District Court of Guam
21 4th Floor, U.S. Courthouse
22 520 West Soledad Avenue
23 Hagåtña, Guam 96910

24 At the same time you mail or deliver the answer to the Clerk, you must also mail or
25 deliver copies of the answer to:

26 Marivic P. David
27 Assistant U.S. Attorney
28 U.S. Attorney' Office
 Attn: Financial Litigation Unit
 Sirena Plaza, Suite 500
 108 Hernan Cortez Avenue
 Hagåtña, Guam 96910-5059

1 MELVIN LEON GUERRERO
2 XXXX E. Gayinero Rd.
3 Yigo, Guam 96929

4 6. If you have any questions, you should contact your attorney. You may also
5 contact a representative of the United States at the following address and telephone number:

6 Marie Chenery
7 Financial Litigation Unit
8 Sirena Plaza, Suite 500
9 108 Hernan Cortez Avenue
10 Hagåtña, Guam 96910-5059
11 (671) 472-7332
12 FAX: (671) 472-7215

13 7. IF YOU FAIL TO ANSWER THIS WRIT OR TO WITHHOLD PROPERTY IN
14 ACCORDANCE WITH THE WRIT, THE UNITED STATES MAY PETITION THE COURT
15 FOR AN ORDER REQUIRING YOU TO APPEAR BEFORE THE COURT TO ANSWER
16 THIS WRIT AND TO SO WITHHOLD PROPERTY BEFORE THE APPEARANCE DATE.

17 IF YOU FAIL TO APPEAR, OR YOU APPEAR AND FAIL TO SHOW GOOD
18 CAUSE WHY YOU FAILED TO COMPLY WITH THIS WRIT, THE COURT WILL ENTER
19 JUDGMENT AGAINST YOU FOR THE VALUE OF THE DEBTORS'S NONEXEMPT
20 INTEREST IN SUCH PROPERTY (INCLUDING NONEXEMPT DISPOSABLE EARNINGS).

21 THE COURT MAY ALSO AWARD A REASONABLE ATTORNEY'S FEE TO
22 THE UNITED STATES AND AGAINST YOU IF THE WRIT IS NOT ANSWERED WITHIN
23 THE TIME SPECIFIED HEREIN AND IF THE UNITED STATE FILES A PETITION
24 REQUIRING YOU TO APPEAR.
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CLAIM FOR EXEMPTION FORM
MAJOR EXEMPTIONS UNDER FEDERAL LAW

I claim that the exemption(s) from garnishment which are checked below apply in this case:

- ___ 1. Social Security benefits and Supplemental Security income (42 U.S.C. § 407).
- ___ 2. Veterans benefits (38 U.S.C. § 3101).
- ___ 2a. Members of armed services (10 U.S.C. § 1440, 38 U.S.C. § 562).
- ___ 3. Federal Civil Service Retirement benefits (5 U.S.C. § 8346 and 22 U.S.C. § 4060(c)).
- ___ 4. Annuities to survivors of federal judges (28 U.S.C. § 376(n)).
- ___ 5. Longshoremen and Harborworkers Compensation Act (33 U.S.C. § 916).
- ___ 6. Black lung benefits (30 U.S.C. §§ 931(b)(2)(F) and 932(a)).
- ___ 6a. Seaman's master's or fisherman's wages, except for child support or spousal support and maintenance (46 U.S.C.A. §§ 1108-1109(a-c)).

Exemptions listed under 1 through 6 above may not be applicable in child support and alimony cases (42 U.S.C. § 659).

- ___ 6b. Railroad retirement, pension, unemployment benefits (45 U.S.C. §§ 231(m), 352(e)).
- ___ 7. **Bankruptcy Code** (Title 11, United States Code) which generally provides exemptions for:

- ___ 7a. \$18,450.00 of equity in a residence.

<u>Address of Residence</u>	<u>Fair Market Value</u>	<u>Liens</u>	<u>Equity</u>
_____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____

- ___ 7b. \$2,950.00 of equity in a motor vehicle.

Property Claimed: _____
Fair market Value \$ _____

- ___ 7c. \$1,225.00 in jewelry.

Property Claimed: _____
Fair market Value \$ _____

___ 7d. \$9,850.00 in personal property. (However, no single item worth more than \$475.00 can be claimed as exempt.)

Property Claimed: _____
Fair market Value \$ _____

___ 7e. Property totalling up to \$975.00, plus up to \$9,250.00 of any unused amount of the exemption provided in number 7(a) above.

Property Claimed: _____
Fair market Value \$ _____

___ 7f. \$1,850.00 of equity in professional books, implements or tools, your trade or you dependent's trade.

Property Claimed: _____
Fair market Value \$ _____

___ 7g. Any unmaturred life insurance contract you own, other than credit life insurance.

Property Claimed: _____
Fair market Value \$ _____

___ 7h. The aggregate value, up to \$9,850.00, of any accrued dividend or interest under, or loan value of, any unmaturred life insurance contract you own, but only if you are the insured or you are a dependant of the insured.

Property Claimed: _____
Fair market Value \$ _____

___ 7i. Professionally prescribed health aids for you or your dependants.

Property Claimed: _____
Fair market Value \$ _____

___ 7j. Unemployment compensation benefits, local public assistance benefits, disability benefits, illness benefits; and alimony, support and separate maintenance, to the extent these items are reasonably necessary for your support or the support of your dependants.

Property Claimed: _____
Fair market Value \$ _____

- ____ 7k. A payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age or length of service, to the extent reasonably necessary for your support or the support of your dependants, subject to the limitations set forth at Title 11 United States Code Section 522(d)(10)(E)(i)-(iii).

Property Claimed: _____
Fair market Value \$ _____

- ____ 7l. Your right to receive, or property that is traceable to,
- an award under a crime victim's reparation law;
 - a payment on account of the wrongful death of an individual of whom you were a dependant, but only to the extent of reasonably necessary for your support or the support of your dependants;
 - a payment under a life insurance contract that the insured an individual of whom you were a dependant on the date of the insured's death, but only to the extent reasonably necessary for your support or the support of your dependants;
 - a payment, not to exceed \$18,450.00, on account of personal bodily injury suffered by you or by an individual of whom you are a dependant; however, payment for pain and suffering or payment to compensate actual pecuniary loss are not exempt under this paragraph;
 - a payment in compensation of loss of your future earnings or the future earnings of an individual of whom you are, or were, a dependant, but only to the extent reasonably necessary for your support or the support of the your dependants.

Property Claimed: _____
Fair market Value \$ _____

NOTE: If you have selected the Bankruptcy Code exemptions (Line 7 above), you may not also claim the exemptions listed below.

MAJOR EXEMPTIONS UNDER THE TERRITORY OF GUAM

NOTE: If you select the exemptions available under territorial law, the law of the territory or state while you have been domiciled for the greater part of the last 180 days governs your rights.

Relevant Territorial law provisions pursuant to 7 G.C.A. § 21333 allow the following exemptions:

9. **Debtor's Homestead**

<u>Address of Residence</u>	<u>Fair Market Value</u>	<u>Liens</u>	<u>Equity</u>
_____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____

10. **Personal Property** - Necessary household goods, table and kitchen furniture. Necessary clothing valued at \$50.00 and provision for three months. A fishing boat and net valued at \$50.00. A cow and its calf, two sows and their suckling pigs, fifteen hens and three roosters; and a one month supply of food for each animal. Articles of religious worship valued at \$25.00.

<u>Property Claimed:</u>	<u>Fair Market Value</u>
_____	\$ _____
_____	\$ _____

11. **Trade/Farming Implements** - Farming utensils valued at \$50.00. A beast of burden (e.g., horse, carabao or ox) with one cart together valued at \$150.00 used in the ordinary course of business; also one month supply of food for such beast and grain or vegetables for planting or sowing within six months valued at \$25.00.

<u>Property Claimed:</u>	<u>Fair Market Value</u>
_____	\$ _____
_____	\$ _____

12. **Tools of the Trade** = Professional libraries or lawyers, judges, clergyman, doctors and preachers valued at \$250.00. Necessary tools of mechanic/artisan valued at \$25.00

Amount Claimed: \$ _____

13. **Cemeteries and Burial Funds** - Gravestones

<u>Property Claimed:</u>	<u>Fair Market Value</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____

____ 14. **Wages/Salary** - Necessary earnings of debtor rendered within thirty days next preceding the levy of execution or attachment.

Amount Claimed: \$ _____

____ 15. **Military Equipment** - Arms, uniforms and accouterments for Guam militia.

Property Claimed:

Fair Market Value

\$ _____
\$ _____
\$ _____

____ 16. **Child Support and Separate Maintenance** - Child support money received.

Amount Claimed: \$ _____

____ 17. **Pensions and Retirement Benefits** - Pensions payable by the U. S., Government of Guam, and private retirement plans.

Amount Claimed: \$ _____

The statements made in this claim of entitlement to exemptions and the fair market value of the property designated are made and declared under penalty of perjury that they are true and correct.

Date

Signature of Defendant

Defendant's printed or typed name